THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12334 OF 2005

ORDER:

When the vacate petition filed by the 1st respondent is listed for hearing, with the consent of the learned counsel for both the parties, the main Writ Petition itself is heard and decided by this order.

The writ petitioner claims to be the lessee in respect of lands to an extent of Ac.9.15 cents situated in Sy.No.995 and Ac.1.42 cents situated in Sy.No.1015 of Rangapuram village, Kazipet Mandal, Kadapa District. Admittedly, the said lands belong to Endowments Department. The lease was for the period from 2003 to 2006 and the same was granted by conducting auction in which the petitioner was declared to be the successful bidder. Consequently the petitioner deposited all the amounts as required by the Department and the lands in question were put in possession and he has been raising crops. While so, the 1st respondent issued auction notice dated 20.7.2004 proposing to auction the leasehold rights of the lands in possession of the petitioner. Contending that the lease in his favour was subsisting, the petitioner filed W.P.No.13154 of 2004 and this Court stayed the proposed auction. Subsequently the respondents filed counter contending that the lease in favour of the petitioner was cancelled by proceedings dated 19.7.2004. Having heard both the parties this Court found that the petitioner was neither given a copy of the enquiry report nor the proceedings of the cancellation of lease. Accordingly by order dated 21.4.2005 the Writ Petition was disposed of granting liberty to the petitioner to file his explanation within four weeks from 21.4.2005. Thereafter the petitioner submitted his explanation on 20.5.2005 and the same was sent to the respondents by speed post. However, the 3rd respondent failed to pass any final order as directed by this Court, but on the other hand, proposed to conduct public auction in respect of the same lands as per the pamphlet issued by the 1st respondent dated 27.5.2005, and the auction was scheduled to be conducted on 6.6.2005 at 9.00 a.m. Aggrieved by the said action, the present Writ Petition is filed contending that the impugned action of the respondents is arbitrary, illegal and in

contravention of the earlier orders of this Court.

This Court while directing notice by order dated 13.6.2005 directed the respondents not to dispossess the petitioner from the lands in question.

On behalf of the respondents the Manager of the 1st respondent-Mutt filed a counter-affidavit in which it is stated that since the petitioner failed to submit his explanation, the Commissioner, Endowments, passed orders dated 26.5.2005 directing the 1st respondent to proceed with fresh public auction, and accordingly, notification was issued on 27.5.2005 proposing to conduct public auction on 6.6.2005 to lease out the lands in question.

I have heard the learned counsel for the petitioner and the learned standing counsel appearing for the 1st respondent as well as the learned counsel appearing for respondents 2 and 3.

It is to be noted that this Court while disposing of Writ Petition No.13154 of 2004 ordered as under:

> " Inasmuch as the first respondent conducted the enquiry without any notice to the petitioner and the third respondent-Commissioner cancelled the lease of the petitioner without providing an opportunity of hearing to the petitioner, I deem it appropriate to direct the petitioner to submit an explanation to the enquiry report of the first respondent, to the third respondent-Commissioner, Endowments, A.P., Hyderabad within a period of four weeks from today and on such explanation, the third respondent is directed to consider the same and pass appropriate orders thereon in accordance with law within a period of two weeks thereafter."

It is not in dispute that the four weeks time granted by this Court expires only on 21.5.2005. Admittedly, the petitioner submitted his explanation on 20.5.2005 itself. The said fact has not been disputed by the respondents in their counter-affidavit. If that be so, it is ununderstandable as to how the Commissioner, Endowments, passed orders directing the 1st respondent to proceed with public auction. In the absence of any material to show that the explanation submitted by the writ petitioner in compliance with the orders of this Court in the earlier round of litigation was not received by the respondents within the time granted by this court, I am of the view that the action of the respondents in proposing to conduct fresh public auction is arbitrary and illegal.

Accordingly, the Writ Petition is disposed of directing the 3rd respondent to consider the explanation submitted by the petitioner and pass appropriate orders in accordance with law strictly adhering to the orders of this Court in W.P.No.13154 of 2004. Till such time, the respondents are directed not to put the lease hold rights of the lands in question to auction and the petitioner shall not be dispossessed from the lands in question.

The Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

9th September, 2005.

Furnish CC in three days.

(Bo)

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